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Filing date: **07/01/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210772
Party	Defendant T H K Photo Products, Inc.
Correspondence Address	KATHERINE M. HOFFMAN MCKENNA LONG & ALDRIDGE LLP 600 W BROADWAY STE 2600 SAN DIEGO, CA 92101-3372  khoffman@mckennalong.com;mlaip@mckennal
Submission	Answer
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Signature	/kmh/
Date	07/01/2013
Attachments	NXT Answer img-701121247-0001.pdf(145370 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re:

Applicant's Mark: NXT  
Serial No.: 85/718,687  
Filed: August 31, 2012  
Published: In the Official Gazette on February 5, 2013

INTERCAST EUROPE S.r.l.,	)	Opposition No. 91210772
	)	
Opposer,	)	<b>ANSWER TO NOTICE OF OPPOSITION</b>
	)	
v.	)	
	)	
THK PHOTO PRODUCTS, INC.,	)	
	)	
Applicant.	)	
	)	

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Applicant Kenko Tokina USA, Inc., formerly THK Photo Products, Inc. ("Applicant"), hereby answers the Notice of Opposition filed by Intericast Europe S.r.l. ("Opposer") as follows, wherein numbered paragraphs correspond to the like numbered paragraphs in the Notice of Opposition.

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of paragraph 1 averments, and therefore denies same.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of paragraph 2 averments, and therefore denies same.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of paragraph 3 averments, and therefore denies same.

4. Denied.
5. Denied.
6. Denied.

#### **AFFIRMATIVE DEFENSES**

7. Applicant asserts the Opposer has failed to allege grounds sufficient to establish its standing to maintain the present opposition.

8. Applicant asserts the Opposer as failed to state sufficient grounds for maintaining an opposition and prevent registration of Applicant's mark.

9. Applicant asserts that Opposer's requested relief should be denied because there is no likelihood of confusion between Opposer's use, if any, and Applicant's proposed use.

10. Applicant asserts that Opposer's requested relief should be denied as to the extent Opposer has ever owned any enforceable rights in and to the NXT mark, because such rights have been abandoned.

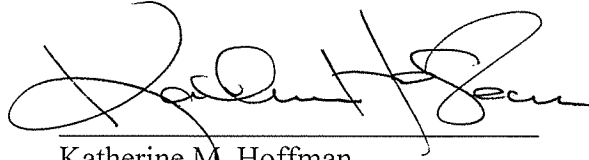
11. Applicant asserts that Opposer's requested relief should be denied because Opposer has failed to use the NXT mark in interstate commerce.

12. Applicant asserts that Opposer's requested relief should be denied as claims are barred due to laches and/or acquiescence by Opposer given the unreasonable delay in asserting its rights.

WHEREFORE, Applicant requests that the present opposition be dismissed with prejudice so that Applicant's application can proceed to mature into a registration.

Dated: July 1, 2013

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Katherine M. Hoffman', written over a horizontal line.

Katherine M. Hoffman  
McKenna Long & Aldridge LLP  
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Attorney for Applicant  
*Kenko Tokina USA, Inc.*  
*(formerly THK Photo Products, Inc.).*

### CERTIFICATE OF SERVICE

I am employed in San Diego County. My business address is 4435 Eastgate Mall, Suite 400, San Diego, California 92121, where this mailing occurred. I am over the age of 18 years and am not a party to this cause. I am "readily familiar" with the practices of McKenna Long & Aldridge LLP for collection and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited with the United States Postal Service the same day in the ordinary course of business.

On July 1, 2013, I served the foregoing document(s) described as:

### **ANSWER TO NOTICE OF OPPOSITION**

By placing true copies thereof enclosed in sealed envelope(s) addressed as follows:

Ralph H. Cathcart  
Ladas & Parry LLP  
1040 Avenue of the Americas  
New York, NY 10018  
Tel. No. (212) 708-1920  
Email: [rcathcart@ladas.com](mailto:rcathcart@ladas.com)  
*Attorneys for Opposer*  
*Intercast Europe S.r.l.*

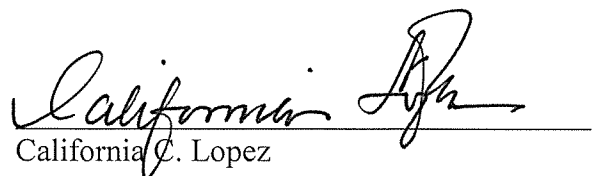
- ☒ **BY MAIL.** I deposited such envelope in the mail at San Diego, California. The envelope was mailed with postage thereon fully prepaid.

I am "readily familiar" with the business' practice of collection and processing of correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Diego, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

- ☐ **BY PERSONAL SERVICE.** I delivered such envelope by hand to the offices of the party(ies) listed above. [by delivering a copy to CalExpress Messenger Service] on this date for personal service on each party listed above.

I declare under penalty of perjury under the laws of the United States of America that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on July 1, 2013, at San Diego, California.

  
California C. Lopez